

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2017-381-A

In Re:

Office of Regulatory Staff's Petition for an)
 Order Requiring Utilities to Report the Impact)
 Of the Tax Cuts and Jobs Act)
 _____)

OBJECTION TO PETITION TO INTERVENE

Palmetto Utilities, Inc. ("PUI"), pursuant to 10 S.C. Code Ann. R.103-825.A.3 (2012), submits the within objection to the May 16, 2018, Petition to Intervene of the Homebuilders Association of South Carolina ("Petition") in the above-captioned docket. For the reasons set forth below, PUI objects to the proposed intervention and submits that the Petition should be denied and in support thereof would respectfully show unto this Honorable Commission as follows:

1. Petitioner lacks standing to pursue intervention in this docket as it has made no showing that any of its members have been requested to pay, or will be requested to pay, the tax multiplier which only became effective upon the approval of the Commission granted in Order No. 2018-252, issued April 4, 2018.

2. Petitioner, even assuming that it does have standing, has no interest cognizable in the instant docket as neither it nor its members are customers of PUI and therefore will not be affected by the outcome of this proceeding, which pertains only to the questions raised by the Office of Regulatory Staff ("ORS") of whether (a) jurisdictional utility rates should be reduced and (b) ratepayers should receive a refund, both as a result of the passage of the Tax Cut and Jobs Act, Public

Law 115-97, effective December 22, 2017 (“Act”). The Commission has now decided those issues in Order No. 2018-308, issued April 25, 2018. Even if the Commission were disposed to allow intervention in this docket – which it has to date not done – Petitioner’s proposed intervention is not timely as the Commission has now acted on the petition giving rise to the docket.

3. Additionally, Petitioner’s stated interest in this proceeding is insufficient to warrant a grant of intervention as a matter of law. Petitioner states that the interest of it and of its members arises “by virtue of being affected by the Tax Cuts and Jobs Act, as applied by Commission Order No. 2018-252, other orders of this Commission, and as may be applied in subsequent orders of the Commission issued in this Docket.” *See* Petition ¶3. In amplifying upon this putative interest, Petitioner states that one of the concerns of it and its members “is the ‘tax multiplier’ that **has been** applied or **may be** applied to CIAC [contributions in aid of construction] made by Petitioner’s members to various utilities regulated by this Commission.” *See* Petition ¶3 (emphasis supplied). Notably, however, Petitioners fail to identify any jurisdictional utility which has applied the tax multiplier to CIACs which have been made any of Petitioner’s members.¹ Further, to the extent PUI may seek to impose the tax multiplier on CIACs which will be made by Petitioner’s members in the future, a claim that this constitutes an improper charge of a utility is not now ripe for consideration by the Commission.

4. Also without merit is Petitioner’s contention that intervention is warranted because “the Commission must consider all the impacts the Tax Cuts and Jobs Act may have **on utilities**, not just one particular effect of one specific provision thereof.” *See* Petition ¶4 (emphasis in bold supplied). Although PUI agrees with this statement, it disagrees that it provides any basis for

¹ As one of only two public utilities which have (to date) been authorized to impose a tax multiplier, PUI affirmatively asserts that it has not sought to impose the tax multiplier approved in Order No. 2018-252 on CIACs made to it by any of Petitioner’s members. PUI further affirmatively states that it will only impose the tax multiplier on CIACs sought to be made on or after the effective date of Order No. 2018-252, which is April 4, 2018.

intervention in this matter by Petitioner and its members as they are not utilities. Rather than seeking to address all impacts of the Tax Cuts and Jobs Act on utilities, Petitioner and its members are in fact seeking to address only one such impact, which is the application of federal income tax to CIACs. This additional income tax is properly required to be paid by any entity seeking an extension of PUI's facilities or a commitment for multi-tap capacity, which must agree to pay all associated costs under provisions of PUI's approved rate schedule which predate Order No. 2018-252. *See* Appendix A, Sections 10 & 11, Commission Order No. 2018-155, issued March 7, 2018, in Docket No. 2017-228-S. Thus, in reality Petitioner and its members seek to deprive utility customers of the protection afforded them by the Commission under Order No. 2018-252 and indirectly invalidate provisions of PUI's rate schedule.

5. Petitioner's attempt to reserve to itself the right to assert a position regarding any matter beyond its expressed interest in the tax multiplier approved in Order No. 2018-252 (*see* Petition ¶6) should be rejected by the Commission as contrary to 10 S.C. Code Regs. 103-825.A.(3)(c) (2015).

6. Denial of this petition to intervene does not preclude review of the propriety of the tax multiplier approved in Order No. 2018-252 as S.C. Code Ann. § 58-5-290 (2015) allows the Commission, after hearing, to find that a PUI rate or charge is improper. Although PUI would dispute any assertion that the tax multiplier approved in Order No. 2018-252 is improper, because it is an approved rate or charge which is not subject to review under § 58-5-330, the only means by which the Commission may exercise jurisdiction in addressing the matters raised by Petitioner's members is pursuant to a complaint filed under § 58-5-290.

For all of the foregoing reasons, PUI objects to the Petition to Intervene and submits that it should be denied.

Respectfully submitted,

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This 18th day of May, 2018
Columbia, South Carolina